MINISTER OF CONSERVATION
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

January 4, 2001

U.S. Department of Energy
Office of Policy, Office of Economic, Electricity
and Natural Gas Analysis
PO-2l
Forrestal Building, Room 7H-034
1000 Independence Avenue S.W.
WASHINGTON, D.C. 20585

Dear Sirs:

RE: ELECTRIC RELIABILITY COMMENTS
COMMENTS OF MANITOBA CONSERVATION REPRESENTING THE GOVERNMENT OF MANITOBA

The following are the comments of the Government of Manitoba ("Manitoba Conservation1') in response to the U.S. Department of Energy's request for comments set forth in its Notice of Inquiry regarding Electric Reliability Issues dated November 20, 2000.

Introduction

The Manitoba Government, under the Canadian Constitution, retains sovereignty over provincial interests related to electrical reliability. Specific issues of concern raised by the DOE's Notice of Inquiry relate to the relationship between the reliability organization and regional transmission organizations (RTO's). There is the potential for actions by the Federal Energy Regulatory Commission with respect to reliability and regional transmission organizations, to affect the ability of Canadian provincial governments to establish policies and regulations for the Canadian electric power industry.

Reliability of the interconnected grid is critically important to Manitoba. The Manitoba Government has been represented on the Federal Provincial Working Group on Electrical Reliability, and has participated in meetings between U.S. DOE, the Canadian Federal Government, FERC and provinces where we have explored various options for implementing mandatory reliability standards in the emerging competitive electricity market. While Manitoba's positions in these meetings have stressed the need for mandatory standards, we have also noted that our sovereignty must be respected and have recognized the interconnected nature of the transmission grid.

In Manitoba, Manitoba Hydro is the crown utility which provides the majority of power to Manitoba and is the only utility which is directly interconnected to the North American grid. Manitoba Hydro has a statutory mandate and common law duty to provide a reliable supply of electricity to its native load customers, and the issue of reliability is of utmost importance to Manitoba Hydro. As a member of the Canadian Electricity Association, Manitoba Hydro has been extensively involved in formulating a plan in conjunction with Canadian regulators, Natural Resources Canada and provincial governments that ensures reliability arnong Canadian electricity market participants. At an international level, Manitoba Hydro provided Canadian industry representation on the NERC Government Interface Issues Task Group which worked with the U.S. Department of Energy to develop the proposed reliability legislation for the United States known as CECA.

Responses

1. **Is the existing arrangement of voluntary compliance with industry reliability rules sufficient to ensure reliability of the bulk power transmission system?**

The Manitoba Government believes that a voluntary system of compliance with reliability standards is no longer workable. The introduction of competition into the electricity market both by FERC Order 888 and Canadian restructuring legislation has greatly changed the landscape of the industry. Vast changes in the number and complexity of transactions taking place increase the challenge of maintaining a reliable integrated system. Correspondingly, there has been a decrease in the incentive to voluntarily comply with reliability standards due to the emergence of power marketers and other non-vertically integrated market participants who do not own transmission facilities and/or do not owe a duty to native load customers. For these reasons, the Manitoba Government strongly supports the imposition of mandatory reliability standards.

2. **What can FERC do under existing authorities to address reliability concerns?**

This question relates to the authority of FERC under the U.S. constitutional and legal process. The Manitoba Government respects the right of the U.S to interpret its authorities within its jurisdiction, and therefore we believe it would be inappropriate for us to provide comment.

3. **If FERC has the authority to establish and enforce reliability standards, may FERC delegate such authority to a self-regulating reliability organization? Should it do so?**

If FERC has the legal authority to delegate reliability standard development and enforcement to a self-regulating reliability organization ("SRRO"), then Manitoba suggests that it should examine this option further. As mentioned in the Notice of Inquiry, the U.S. transmission grid is a component of an interconnected North American transmission grid. Because of the international nature of the transmission grid, reliability would best be accomplished through a single international organization, such as a properly structured SRRO, rather than several different and enforcement of standards would become very cumbersome and time consuming. In order to

government regulators across North America. Without delegation of authority, the development ensure consistency of standards, each FERC decision impacting the entire grid would require prior consultation and coordination with regulators from other jurisdictions, including the National Energy Board of Canada and the provincial regulators in the interconnected provinces with jurisdiction over reliability. In Manitoba's opinion, failure to delegate U.S. legal authority over the development of reliability standards to a single international SRRO increases the complexity of an international agreement on reliability.

4. **Are there elements in CECA, or other electric reliability legislative language, which can, with or without modification, be used in a rulemaking?**

While Manitoba understands that some degree of U.S. regulatory oversight of the SRRO may be necessary for U.S. legal requirements, it is strongly urged that such oversight be kept to a minimum so as to preserve the international nature of the SRRO. Accordingly, Manitoba does not recommend that the language of CECA be adopted. The CECA language prescribes the governance, membership, funding and procedures for the SRRO, which are matters that are more appropriately decided by and contained within an international agreement. Moreover, any language such as proposed in CECA which allows FERC to develop standards (even on an emergency basis), direct the SRRO to modify standards, or to modify or suspend delegation agreements between the SRRO and regional entities will likely lead to great complexity in coordinating such decisions with other regulators in affected jurisdictions across North America. Accordingly, it is Manitoba's position that extensive regulatory oversight by FERC increases the complexity of an international agreement governing the subject of reliability.

5. **What should the relationship be between Regional Transmission Organizations, as advanced in FERC Order No 2000, and an Electric Reliability Organization as proposed in CECA?**

It is Manitoba's position that as an operator of transmission system(s), an RTO should have input into the development of reliability standards along with other market participants and should be obligated to comply with the reliability standards developed by an international SRRO. However, an RTO should not also play the role of enforcer as this both presents a conflict of interest and may involve the RTO in cross-border enforcement activity. It may be possible for the RTO to assist the SRRO in some manner by monitoring or reporting the actions of the transmission owners over whose facilities the RTO has authority (depending on the contractual arrangement between the owners and the RTO), but the SRRO should be the entity responsible for enforcing compliance with standards across North America.

6. **How should the responsibilities and roles of the FERC and the States be addressed in the rulemaking?**

This question relates to the authorities delegated under the U.S. constitutional and legal process. The Manitoba Government respects the right of the U.S to interpret its authorities within its jurisdiction, and therefore believe it inappropriate for us to provide comment.

7. **Recognizing the international nature of the interconnected transmission grid, how could implementation of mandatory reliability standards be coordinated with Canada and Mexico?**

The international nature of the grid must be recognized as the starting point for any effective North American reliability regime. That is, the structure of the reliability organization must be built upon its international complexion.

Given this fundamental characteristic, it is imperative that reliability standards across North America be uniform or, at a minimum, consistent. Coordination with Canada and Mexico can therefore best be achieved optimally through an agreement between all three countries or at least a Memorandum of Understanding which establishes the structure and governance of a single international reliability organization and which has light handed regulatory oversight from each of the participating countries. Furthermore, the document needs to address coordination of regulatory decisions and potential disputes. Otherwise, regulators in all three countries acting unilaterally with the vast scope of powers proposed in CECA may cause reliability standards to be disapproved, overturned or modified in different jurisdictions. This would cause great difficulties and uncertainties in reliability for international transactions between differing regulatory jurisdictions.

This type of approach could also incorporate a standard form contract developed by the international reliability organization which contains the terms and conditions imposed on market participants with respect to reliability which becomes effective upon regulatory approval. Such a model may reduce the need for detailed regulatory orders or legislation and would build upon many existing reliability agreements which are already in place in many NERC regions.

All of which is respectfully submitted.

Sincerely,

Oscar Lathlin
Minister